

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 94-720-T - ORDER NO. 94-1239 ✓

DECEMBER 1, 1994

IN RE: Application of Carolina Bonded Storage) ORDER
Co., 419 Gadsden Street, P.O. Drawer) WAIVING
1089, Columbia, SC 29202, For a Class) REGULATION
E Certificate of Public Convenience) AND GRANTING
and Necessity.) CERTIFICATE

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed by Carolina Bonded Storage Co. (the Applicant) for a Class E Certificate of Public Convenience and Necessity to render motor freight service as follows:

COMMODITIES IN GENERAL, AS DEFINED IN R. 103-211 (1):
Between points and places in South Carolina, for
customers of the warehouses owned, operated, or managed
by Carolina Bonded Storage Co.

RESTRICTED: To shipments owned by bona fide warehouse
customers of Carolina Bonded Storage Co.

Staff requests the Commission to waive its regulation concerning publication of the Notice of Filing and to consider the Application as filed. Staff's request is based on the effect of the Federal Aviation Administrative Authorization Act of 1994 (the Act) which was signed by the President on August 23, 1994. Effective January 1, 1995, the Act preempts states from regulating the price, route, or service of motor carriers transporting property. As of January 1, 1995, a motor carrier, such as the Applicant, will only need to file evidence of financial

responsibility relating to insurance requirements and an appropriate safety rating with state regulatory authorities. As the Commission will be preempted from regulating entry of motor carriers, Staff requests a waiver of the Commission's regulation regarding publication of a Notice of Filing. The Commission has considered Staff's request for waiver of publication and for immediate consideration of the Application and concludes, and so finds, that Staff's request should be granted. The Commission believes that publication of a Notice of Filing would be useless and impractical as the Commission's authority concerning entry will be preempted as of January 1, 1995. Therefore, the Commission will waive the publication requirement and consider the Application as filed.

Upon consideration of the Application, the representations contained therein and the documentary evidence attached thereto, the Commission finds that the Applicant is willing and able to perform the service to the public under the authority sought. While the Commission finds that the Applicant is willing and able to provide the proposed service, it notes that the Applicant has not received a safety rating and, consequently, the Commission is unable to conclude that the Applicant is currently fit to provide the services requested. Therefore, the Commission hereby approves the Application, subject to the Applicant complying with the requirements below listed.

In so granting the Application, the Commission recognizes that the Federal Aviation Administrative Authorization Act of 1994, preempts Commission regulation of the transportation services

sought by the Applicant effective January 1, 1995. Therefore, the Commission believes that it would be an exercise in futility to deny this Application.

According to the Commission's files, the Applicant is the holder of Class E Certificate No. 1309, which duplicates in part the authority granted herein. The Commission accordingly orders that such duplicating authority be cancelled pursuant to R.103-157 of the Commission's Rules, Vol. 26, S.C. Code Ann., 1976.

IT IS THEREFORE ORDERED:

1. That the Application for a Class E Certificate of Public Convenience and Necessity be, and hereby is, approved.
2. That the Applicant file the proper license fees and other information required by S.C. Code Ann. §58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, within sixty (60) days of the date of this Order or within such additional time as may be authorized by the Commission.
3. That the Applicant obtain a satisfactory safety rating within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.
4. That upon compliance with S.C. Code Ann., §58-23-10, et seq. (1976), as amended, and the applicable provisions of R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a certificate shall be issued to the Applicant authorizing the motor carrier services granted herein.

5. That prior to compliance with such requirements and receipt of a certificate, the motor carrier services authorized herein may not be provided.

6. That the authority granted to the Applicant by Class E Certificate of Public Convenience and Necessity No. 1309 be, and hereby is, cancelled, and further that the Applicant return said Certificate to the Commission.

7. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


CHAIRMAN

ATTEST:


Deputy Executive Director

(SEAL)